

ESTTA Tracking number: **ESTTA774921**

Filing date: **10/05/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	CCA & B, LLC
Granted to Date of previous extension	10/05/2016
Address	3350 Riverwood Parkway Suite 300 Atlanta, GA 30339 UNITED STATES

Correspondence information	James H. Johnson, Jr. Attorney for Opposer Sutherland Asbill & Brennan LLP 999 PEACHTREE STREET NE Atlanta, GA 30309-3996 UNITED STATES Patent.docket@sutherland.com, james.johnson@sutherland.com, ann.fort@sutherland.com, susan.russell@sutherland.com
----------------------------	--

Applicant Information

Application No	86871094	Publication date	06/07/2016
Opposition Filing Date	10/05/2016	Opposition Period Ends	10/05/2016
Applicant	Saw Works Brewing Company, LLC 708 East Depot Ave. Knoxville, TN 37917 UNITED STATES		


Goods/Services Affected by Opposition


Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beer, ale, lager, stout and porter

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)
Deceptiveness	Trademark Act Section 2(a)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3533459	Application Date	01/10/2008
Registration Date	11/18/2008	Foreign Priority Date	NONE
Word Mark	THE ELF ON THE SHELF		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2005/10/01 First Use In Commerce: 2005/10/01 Children's activity books; Children's books Class 028. First use: First Use: 2005/10/01 First Use In Commerce: 2005/10/01 Dolls and children's books, sold as a unit		

U.S. Registration No.	3553223	Application Date	03/18/2008
Registration Date	12/30/2008	Foreign Priority Date	NONE
Word Mark	THE ELF ON THE SHELF		
Design Mark			
Description of Mark	The mark consists of the words the ELF on the SHELF". The word "the" appears in red lower-case lettering. Directly below the word "the" appears the word "ELF" which consists of yellow upper-case lettering outlined in red. Directly below the		

	word "ELF" appears the words "on the" which consist of red lower-case lettering. Directly below the words "on the" appears the word "SHELF" which appears in yellow upper-case lettering outlined in red.
Goods/Services	Class 016. First use: First Use: 2005/09/01 First Use In Commerce: 2005/09/01 Children's activity books; Children's books Class 028. First use: First Use: 2005/09/01 First Use In Commerce: 2005/09/01 Dolls and children's books, sold as a unit

U.S. Registration No.	5020389	Application Date	07/09/2015
Registration Date	08/16/2016	Foreign Priority Date	NONE

Word Mark	THE ELF ON THE SHELF
-----------	----------------------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	<p>Class 011. First use: First Use: 2011/05/00 First Use In Commerce: 2011/05/00 Electric night lights; Decorative lighting in the nature of electrically-illuminated figurines</p> <p>Class 016. First use: First Use: 2013/10/01 First Use In Commerce: 2013/10/01 Gift bags; Gift wrap paper; Paper gift tags; Gift boxes; Stickers; Calendars; Art pictures</p> <p>Class 020. First use: First Use: 2013/08/01 First Use In Commerce: 2013/08/01 Picture frames; Inflatable figures for use as outdoor holiday decorations; Plastic cake toppers and decorations</p> <p>Class 024. First use: First Use: 2011/08/01 First Use In Commerce: 2011/08/01 Placemats, not of paper; Table runners, not of paper; Cotton and polyester fabric; Textile wall hangings; Textile wall hangings in the shape of an elf</p> <p>Class 025. First use: First Use: 2014/09/01 First Use In Commerce: 2014/09/01 Costumes for use in children's dress-upplay</p> <p>Class 026. First use: First Use: 2014/09/30 First Use In Commerce: 2014/09/30 Shoe ornaments not of precious metal</p> <p>Class 028. First use: First Use: 2009/09/04 First Use In Commerce: 2009/09/04 Playing cards; Memory games; Board games; Party games; Puzzles; Christmas tree skirts; Plush dolls; Christmas tree ornaments; Snow globes; Toy miniature buildings; Modeled plastic toy figurines; Hobby craft kits for making Christmas stockings comprising fabric and patterns</p> <p>Class 030. First use: First Use: 2013/08/01 First Use In Commerce: 2013/08/01 Hot chocolate; Cookies; Bakery products, namely gingerbread houses; Candy decorations for cakes; Chocolate</p>
----------------	--

Attachments	77368580#TMSN.png(bytes) 77424678#TMSN.png(bytes) 86688533#TMSN.png(bytes) Notice of Opposition - ALE ON THE SHELF - Final Version - 10 05 2016.pdf(68822 bytes) Exhibits to Notice of Opposition.pdf(4669770 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/James H. Johnson, Jr./
Name	James H. Johnson, Jr.
Date	10/05/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No..... 86/871,094
For the mark..... ALE ON THE SHELF
Published in the Official Gazette on..... June 7, 2016

CCA and B, LLC

Opposer,

v.

Saw Works Brewing Company, LLC

Applicant.

OPPOSITION NUMBER:

Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

CCA and B, LLC, a Georgia limited liability company with a principal place of business at 3350 Riverwood Parkway, Atlanta, Georgia, 30339 (“CCA & B” or “Opposer”) believes it will be damaged by the registration of the mark **ALE ON THE SHELF** for “beer, ale, lager, stout and porter” (“Applicant’s goods”) shown in U.S. Trademark Application Serial No. 86/871,094 (the “Application”), by Saw Works Brewing Company, LLC, at 708 East Depot Ave., Knoxville, Tennessee 37917 (“Applicant”) and hereby opposes the same.

The grounds for opposition are as follows:

PROCEDURAL HISTORY

1. Applicant filed a trademark application assigned U.S. Trademark Application Serial No. 86/871,094, in the United States Patent and Trademark Office to register the mark **ALE ON THE SHELF** for use in connection with the sale of Applicant's goods in International Class 32 on January 11, 2016.
2. The Application is based on Applicant's alleged intent to use the mark **ALE ON THE SHELF** in connection with the sale of Applicant's goods in interstate commerce; by and through the Application, Applicant seeks registration for **ALE ON THE SHELF** as a mark for Applicant's goods.
3. The Application was published for Opposition in the Official Gazette of June 7, 2016.
4. On June 15, 2016, Opposer timely filed a request for a 30-day extension of time to oppose the Application. The Trademark Trial and Appeal Board granted Opposer an extension of time to oppose until August 6, 2016. On August 4, 2016, Opposer filed a request for a 60-day extension of time to oppose the Application. On August 4, 2016, the Trademark Trial and Appeal Board granted Opposer an extension of time to oppose until October 5, 2016.

BACKGROUND OF OPPOSER

5. Opposer is a family owned and operated publishing company, founded in 2005 by Carol Aebersold ("Aebersold") with her daughters Chanda Bell ("Bell") and Christa Pitts.
6. In 2005, Aebersold and Bell co-authored a children's book entitled "The Elf on the Shelf: A Christmas Tradition," which continues to be published, marketed, and sold throughout the United States.
7. With first use and first use in commerce dates of October 1, 2005, "The Elf on the Shelf: A Christmas Tradition" is always sold alongside a plush "Scout Elf" doll.

8. Opposer obtained a registration from the United States Patent and Trademark Office for the word mark **THE ELF ON THE SHELF**, U.S. Trademark Registration No. 3,533,459, on November 18, 2008.

9. The registration for **THE ELF ON THE SHELF** word mark is valid and incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

10. Opposer owns a second registration from the United States Patent and Trademark Office for the design plus word mark for the stylized version of its **THE ELF ON THE SHELF** trademarks, U.S. Trademark Registration No. 3,553,223, registered on December 30, 2008.

11. The registration for **THE ELF ON THE SHELF** design plus word mark for the stylized version of its **THE ELF ON THE SHELF** trademarks is valid and incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

12. Opposer holds a total of 27 valid trademark registrations and nine applications, including U.S. Trademark Registration No. 5,020,389, for **THE ELF ON THE SHELF** word mark in international class 30 for “Hot chocolate; Cookies; Bakery goods, namely gingerbread houses; Candy decorations for cakes; Chocolate.” A true and correct copy of Opposer’s 36 LIVE registrations and applications, in addition to the individual trademark registrations cited in herein, is attached hereto as Exhibit A. A true and correct image of Opposer’s **THE ELF ON THE SHELF** Sippers Chocolate Cocoa is attached hereto as Exhibit B.

13. U.S. Trademark Registration Nos. 3,533,459 and 3,553,223, for **THE ELF ON THE SHELF** are for goods in international classes 16 and 28, covering “children’s activity books; children’s books; and dolls and children’s books, sold as a unit.” A true and correct image of Opposer’s “The Elf on the Shelf: A Christmas Tradition” book and doll set is attached hereto as

Exhibit C.

14. Since launching the “The Elf on the Shelf: A Christmas Tradition” book and doll set in 2005, Opposer has been continually expanding its **THE ELF ON THE SHELF** brand. Opposer is actively licensing **THE ELF ON THE SHELF** trademarks for use on more than one hundred different licensed goods primarily marketed to families with small children. *See also* Opposer’s website for its available **THE ELF ON THE SHELF** goods at <https://www.elfontheshelf.com/>.

15. Opposer has expended substantial time, effort, and money to advertise and publicize **THE ELF ON THE SHELF**, and to foster the public’s identification of its **THE ELF ON THE SHELF** trademarks with Opposer’s goods.

16. Opposer’s **THE ELF ON THE SHELF** brand is primarily marketed to families with small children.

17. Goods bearing **THE ELF ON THE SHELF** trademarks are sold through both brick and mortar retail stores and via the Internet.

18. For the past four years, Opposer’s Scout Elf doll giant balloon character has preceded Santa Claus in the Annual Macy’s Thanksgiving Day Parade, watched by more than 3.5 million live spectators and more than 50 million additional television viewers all over the world. A true and correct copy of NBC Universal’s press release for the 89th Annual Macy’s Thanksgiving Day Parade is attached hereto as Exhibit D.

19. In December 2015, “The Elf on the Shelf: A Christmas Tradition” reached number one on USA Today’s bestseller list for the third year in a row. USA Today has called **THE ELF ON THE SHELF** “as ubiquitous as Santa himself.” True and correct copies of the USA Today articles are attached hereto as Exhibit E.

20. As a result of Opposer’s extensive promotion and quality, Opposer has created substantial

goodwill and value in **THE ELF ON THE SHELF** trademarks.

21. By virtue of extensive advertising, promotion and sales in interstate commerce, **THE ELF ON THE SHELF** has become widely recognized by the general consuming public of the United States as a designation of source of Opposer's goods.

22. **THE ELF ON THE SHELF** are famous trademarks.

BACKGROUND ON APPLICANT

23. Upon information and belief, Applicant is primarily in the business of manufacturing, marketing, and selling alcoholic beverages, primarily beer.

24. Upon information and belief, Applicant is not yet selling any goods under the designation **ALE ON THE SHELF**.

25. Applicant's priority date for **ALE ON THE SHELF** can only go back as early as January 11, 2016, many years after Opposer's **THE ELF ON THE SHELF** trademarks were first used, registered, became incontestable, and became famous.

STANDING

26. Opposer alleges it has a direct stake in the outcome of the present proceeding, and will suffer injury in fact through the registration of the Application.

ARGUMENTS

Likelihood of Confusion – Lanham Act § 2(d) – 15 U.S.C. § 1052(d)

27. Paragraphs 1-26 are incorporated herein, by reference.

28. Numerous factors establish the likelihood that Applicant's proposed mark will cause confusion, as prohibited under 15 U.S.C. § 1052(d).

29. Applicant's mark is in the same format as Opposer's trademarks, namely, "_____ ON THE SHELF," and shares three of the same words, presented in identical order.

30. There are no registered trademarks for any other goods in the format of “THE [SUBJECT] ON THE SHELF” other than those belonging to Opposer.
31. The dominant portion of both Applicant’s and Opposer’s multi-word trademarks is the arbitrary use of “ON THE SHELF.”
32. The only difference between Applicant’s mark and Opposer’s trademarks is the use of the word “ALE” instead of the word “ELF.”
33. “ALE” sounds confusingly similar to “ELF,” especially used in the context of “_____ON THE SHELF.”
34. Applicant’s mark and Opposer’s trademarks are similar as to appearance, sound, connotation, and overall commercial impression.
35. Opposer is entitled to a wide latitude of protection for its incontestable and famous **THE ELF ON THE SHELF** trademarks, which may be “the dominant factor in the likelihood of confusion analysis. . . independent of the relatedness of the goods.” *See Recot, Inc. v. M.C. Benton*, 214 F.3d 1322, 1328, 54 USPQ2d 1894, 1989 (Fed. Cir. 2000).
36. Applicant proposes to use the applied-for mark in connection with the sale of beverage goods, which is a similar and/or related good to which Opposer affixes its trademarks for hot chocolate goods for beverages.
37. Upon information and belief, Applicant will offer its current goods, at least in part, to the same, substantially the same, or related classes of purchasers as Opposer, namely beverage consumers.
38. Applicant’s goods and Opposer’s goods will travel in the same or similar established trade channels, namely, places that serve beverages, or sell them for consumption at home.
39. Applicant’s use of **ALE ON THE SHELF** intends to trade off of the goodwill associated

with Opposer's **THE ELF ON THE SHELF** trademarks and is intended to evoke Opposer's trademarks.

40. Opposer's **THE ELF ON THE SHELF** trademarks are strong.

41. Upon information and belief, Applicant is unable to establish priority of use or priority of rights in the United States over Opposer in regards to Applicant's trademark application.

42. Applicant's **ALE ON THE SHELF** mark so resembles Opposer's registered trademarks as to be likely, when used on or in connection with beverage goods, to cause confusion or mistake, or to deceive consumers as to the source or origin of the goods.

False Association or Endorsement – Lanham Act § 2(a) – 15 U.S.C. § 1052(a)

43. Paragraphs 1–42 of the Opposition are incorporated herein, by reference.

44. Applicant's mark is the same, or is a close approximation of Opposer's registered trademarks.

45. Upon information and belief, consumers will immediately recognize Applicant's mark as a close approximation of Opposer's trademarks, its business, and goods.

46. Opposer's registered trademarks are incontestable and famous such that Applicant's registration and/or use of the applied-for mark is likely to create a presumed connection to Opposer, its business, and goods in the minds of consumers.

47. Opposer has no affiliation, association, or connection, past or present, with the Applicant, and has not authorized Applicant to use its mark, nor does Applicant have the consent, sponsorship, approval or certification of Opposer.

48. Applicant's use of a mark substantially similar to Opposer's trademarks is likely to create a false impression of sponsorship, affiliation, and/or connection between Applicant's and Opposer's businesses and/or goods.

Dilution by Tarnishment – Lanham Act § 13(a) and 43(c) – 15 U.S.C. § 1063(a) and 1125(c)

49. Paragraphs 1–48 of the Opposition are incorporated herein, by reference.

50. Opposer’s **THE ELF ON THE SHELF** trademarks are incontestable, famous, and inherently distinctive, and subject to protection from trademark dilution under 15 U.S.C. § 1125(c).

51. Applicant’s mark is intended to evoke Opposer’s trademarks and associate Opposer’s trademarks with alcoholic beverages. This is particularly damaging as Opposer’s trademarks and goods are directed to children, or to families with young children. Opposer has worked long and hard to build a wholesome image for its goods. The registration of the Applicant’s mark threatens Opposer’s image. Applicant’s mark is likely to cause confusion as to source or affiliation, and dilutes Opposer’s world-famous trademarks through both blurring and/or tarnishment, as **THE ELF ON THE SHELF** trademarks are “portrayed in an unwholesome or unsavory context.” *See Hormel Foods Corp. v. Jim Henson Prod., Inc.*, 73 F3d 497, 507 (2d Cir. 1996).

CONCLUSION

52. Opposer would suffer economic damages and/or injury to the value of its trademarks by registration of the Applicant’s mark because such registration would constitute prima facie evidence of Applicant’s exclusive right to use Applicant’s mark for and in connection with Applicant’s goods, which would be inconsistent with and detrimental to Opposer’s prior, established, and superior rights in its famous and incontestable trademarks.

53. Opposer would suffer economic damages and/or injury to the value of its trademarks by registration of the Applicant’s mark due to a likelihood of consumer confusion by Applicant’s adoption of a mark substantially similar to Opposer’s registered trademarks.

54. Opposer would suffer economic damages and/or injury to the value of its trademarks by

registration of the Applicant's mark proximately caused by the likelihood of false association or false endorsement of Applicant's goods or business by Opposer.

55. Opposer would suffer economic damages and/or injury to the value of its trademarks by registration of the Applicant's mark because such use would dilute Opposer's famous trademarks through tarnishment and/or blurring.

56. For all of the foregoing reasons, the registration of the Application is contrary to the provisions of Section 2 of the Lanham Act, and Opposer believes it would be damaged thereby.

REQUEST FOR RELIEF

Wherefore, by the undersigned attorneys, Opposer respectfully requests that the application of Applicant namely U.S. Serial No. 86/871,094, filed January 11, 2016, for the registration of the mark **ALE ON THE SHELF** be refused, that no registration be issued thereon to Applicant, and this opposition be sustained in favor of Opposer.

Opposer has paid the necessary filing fees contemporaneously with the filing of this Notice of Opposition. Please deduct any additional fees that may be due, or credit any overpayment to deposit account 195029.

DATED: October 5, 2016

Respectfully submitted,

/James H. Johnson/

James H. Johnson

Ann G. Fort
ann.fort@sutherland.com

James H. Johnson
james.johnson@sutherland.com

Susan A. Russell
susan.russell@sutherland.com

ATTORNEYS FOR OPPOSER
CCA and B, LLC

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street
Atlanta, Georgia 30309-3996
404.853.8000

CERTIFICATE OF SERVICE

This is to certify, in accordance with Rule 2.101(b) of the Trademark Rules of Practice, that I have this day served the foregoing Notice of Opposition on the Applicant, by causing a true and correct copy thereof to be deposited in the United States via First Class Mail, postage prepaid, addressed to the correspondent of record for the Applicant as follows:

Michael J. Bradford
Luedeka Neely Group, P.C.
P.O. Box 1871
Knoxville, Tennessee 37901-1871

and by forwarding a true and correct copy thereof by electronic mail to said correspondent at the following email address: mbradford@luedeka.com.

5th day of October, 2016

/James H. Johnson/
James H. Johnson

ATTORNEY FOR
OPPOSER CCA and B,
LLC

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street
Atlanta, Georgia 30309-3996
404.853.8000
james.johnson@sutherland.com

EXHIBIT A

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Sep 29 03:21:49 EDT 2016

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DCT](#)
[SEARCH OG](#)
[PREV LIST](#)
[NEXT LIST](#)
[IMAGE LIST](#)
[BOTTOM](#)
[HELP](#)

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **36 Records(s) found (This page: 1 ~ 36)**

Refine Search (live)[LD] AND ("CCA and B")[OW]

Current Search: S2: (live)[LD] AND ("CCA and B")[OW] docs: 36 occ: 72

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	87076790			TSDR	LIVE
2	87017415		SCOUT ELVES AT PLAY	TSDR	LIVE
3	87078239		THE ELF ON THE SHELF	TSDR	LIVE
4	87017412		ELVES AT PLAY	TSDR	LIVE
5	87017408		SCOUT ELVES AT PLAY	TSDR	LIVE
6	86688533	5020389	THE ELF ON THE SHELF	TSDR	LIVE
7	86688571		THE ELF ON THE SHELF	TSDR	LIVE
8	86404530	4998931	ELF PETS	TSDR	LIVE
9	86095505		THE ELF ON THE SHELF A BIRTHDAY TRADITION	TSDR	LIVE
10	86095201		SANTA LOVES BIRTHDAYS TOO	TSDR	LIVE
11	86799488		ELF RETURN WEEK	TSDR	LIVE
12	86325317	4928228	ELF PETS	TSDR	LIVE
13	86482707	4917026	REINDEER NEWS NETWORK	TSDR	LIVE
14	86325314	4823340	ELF PETS	TSDR	LIVE
15	86276531	4813953	THE ELF ON THE SHELF	TSDR	LIVE
16	86325311	4796557		TSDR	LIVE
17	86404533	4712630	A BIRTHDAY TRADITION	TSDR	LIVE
18	86325323	4681927	OFFICIAL NORTH POLE STYLE SANTA APPROVED	TSDR	LIVE
19	86325321	4681926		TSDR	LIVE
20	86325302	4681925		TSDR	LIVE
21	86325304	4671823		TSDR	LIVE
22	86325319	4663877	ELF PETS	TSDR	LIVE
23	86325315	4663876	ELF PETS	TSDR	LIVE
24	86325308	4659706	THE ELF YOU CAN CUDDLE WITH!	TSDR	LIVE
25	86253013	4638594	ELF PETS	TSDR	LIVE
26	86092146	4626171	THE ELF ON THE SHELF	TSDR	LIVE
27	86173335	4604772		TSDR	LIVE
28	85046238	3925075	CREATIVELY CLASSIC ACTIVITIES AND BOOKS	TSDR	LIVE
29	77764920	3742223	CLAUS COUTURE COLLECTION	TSDR	LIVE
30	77788693	3749772	CLAUS COUTURE COLLECTION	TSDR	LIVE
31	77813773	3771317	CCA AND B	TSDR	LIVE
32	77764897	3880905	PLUSHEE PALS	TSDR	LIVE
33	77424946	3575178	SPECIAL DELIVERY FROM THE NORTH POLE	TSDR	LIVE
34	77424678	3553223	THE ELF ON THE SHELF	TSDR	LIVE
35	77368636	3585508		TSDR	LIVE
36	77368580	3533459	THE ELF ON THE SHELF	TSDR	LIVE

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DCT](#)
[SEARCH OG](#)
[PREV LIST](#)
[NEXT LIST](#)
[IMAGE LIST](#)
[Top](#)
[HELP](#)

Generated on: This page was generated by TSDR on 2016-09-30 00:26:18 EDT

Mark: THE ELF ON THE SHELF

THE ELF ON THE SHELF

US Serial Number: 77368580

Application Filing Date: Jan. 10, 2008

US Registration Number: 3533459

Registration Date: Nov. 18, 2008

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Dec. 20, 2013

Publication Date: Jun. 03, 2008

Mark Information

Mark Literal Elements: THE ELF ON THE SHELF

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

International Registration Number: 0966832, 1143870

International Application(s)/Registration(s) Based on this Property: A0012760/0966832, A0029848/1143870

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Children's activity books; Children's books

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 01, 2005

Use in Commerce: Oct. 01, 2005

For: Dolls and children's books, sold as a unit

International Class(es): 028 - Primary Class

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 01, 2005

Use in Commerce: Oct. 01, 2005

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: CCA and B, LLC

Owner Address: Suite 300
3350 Riverwood Parkway
Atlanta, GEORGIA 30339
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country: GEORGIA
Where Organized:

Attorney/Correspondence Information

Attorney Name: James H. Johnson, Jr.

Attorney Primary Email Address: patent.docket@sutherland.com

Attorney of Record
Docket Number: 33258-0001
Attorney Email Authorized: Yes

Correspondent
Name/Address: James H. Johnson, Jr.
Sutherland Asbill & Brennan LLP
999 Peachtree Street NE
Atlanta, GEORGIA 30309-3996
UNITED STATES

Phone: 404-853-8395
Fax: 404-853-8806

Correspondent e-mail: patent.docket@sutherland.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Dec. 20, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Dec. 20, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	76874
Dec. 10, 2013	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	76874
Dec. 20, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76874
Dec. 10, 2013	TEAS SECTION 8 & 15 RECEIVED	
Jun. 28, 2012	NOTICE OF SUIT	
Feb. 15, 2012	NOTICE OF SUIT	
May 18, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
May 18, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Nov. 18, 2008	REGISTERED-PRINCIPAL REGISTER	
Oct. 21, 2008	ASSIGNED TO EXAMINER	76465
Oct. 10, 2008	EXTENSION OF TIME TO OPPOSE PROCESS - TERMINATED	
Jun. 26, 2008	REVIEW OF CORRESPONDENCE COMPLETE	77978
Jun. 17, 2008	PAPER RECEIVED	
Jun. 04, 2008	EXTENSION OF TIME TO OPPOSE RECEIVED	
Jun. 03, 2008	PUBLISHED FOR OPPOSITION	
May 14, 2008	NOTICE OF PUBLICATION	
Apr. 28, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	78289

Apr. 25, 2008	ASSIGNED TO LIE	78289
Apr. 24, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 23, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 23, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 23, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 14, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 14, 2008	NON-FINAL ACTION E-MAILED	6325
Apr. 14, 2008	NON-FINAL ACTION WRITTEN	76616
Apr. 14, 2008	ASSIGNED TO EXAMINER	76616
Mar. 17, 2008	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Mar. 17, 2008	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 14, 2008	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 115

Date in Location: Dec. 20, 2013

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91222780

Filing Date: Jul 13, 2015

Status: Terminated

Status Date: Oct 20, 2015

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Ardwin Products LLC

Correspondent Address: THOR ARDWIN
ARDWIN PRODUCTS LLC
3017 PRAIRIE AVE
ROYAL OAK MI , 48073-6575
UNITED STATES

Correspondent e-mail: ardwinproducts@yahoo.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE MONSTER ON THE SHELF	Abandoned - After Inter-Partes Decision Plaintiff(s)	<u>86472166</u>	

Name: CCA & B, LLC

Correspondent Address: JAMES H JOHNSON JR
SUTHERLAND ASBILL AND BRENNAN LLP
999 PEACHTREE STREET NE, SUITE 2300
ATLANTA GA , 30309
UNITED STATES

Correspondent e-mail: james.johnson@sutherland.com , patent.docket@sutherland.com , david.mayer@sutherland.com , ann.fort@sutherland.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE ELF ON THE SHELF	Section 8 and 15 - Accepted and Acknowledged	<u>77368580</u>	<u>3533459</u>
THE ELF ON THE SHELF	Section 8 and 15 - Accepted and Acknowledged	<u>77424678</u>	<u>3553223</u>
THE ELF ON THE SHELF	Registered	<u>86092146</u>	<u>4626171</u>
THE ELF ON THE SHELF	Registered	<u>86276531</u>	<u>4813953</u>
THE ELF ON THE SHELF	First Extension - Granted	<u>86688571</u>	
THE ELF ON THE SHELF	Registered	<u>86688533</u>	<u>5020389</u>

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jul 13, 2015	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 13, 2015	Aug 22, 2015
3	PENDING, INSTITUTED	Jul 13, 2015	
4	NOTICE OF DEFAULT	Sep 09, 2015	
5	BD DECISION: SUSTAINED	Oct 20, 2015	
6	TERMINATED	Oct 20, 2015	

Type of Proceeding: Extension of Time

Proceeding Number: 77368580 Filing Date: Sep 30, 2008

Status: Terminated Status Date: Oct 10, 2008

Interlocutory Attorney:

Defendant

Name: CCA and B, LLC

Correspondent JENNIFER B. SIMPSON
Address: MOORE INGRAM JOHNSON & STEELE, LLP
192 ANDERSON ST SE
MARIETTA GA , 30060-1902
UNITED STATES

Correspondent e-mail: jsimpson@mijis.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE ELF ON THE SHELF	Section 8 and 15 - Accepted and Acknowledged	<u>77368580</u>	<u>3533459</u>

Potential Opposer(s)

Name: Imaginatives, Ltd.

Correspondent Laura L. Beoglos
Address: SAND & SEBOLT
4940 Munson St., N.W., Suite 1100
Canton OH , 44718-3615
UNITED STATES

Correspondent e-mail: info@sandandsebolt.com

Prosecution History			
Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Jun 04, 2008	
2	EXTENSION OF TIME GRANTED	Jun 04, 2008	
3	REQUEST FOR RECONSIDERATION	Jun 17, 2008	
4	REQUEST FOR RECONSIDERATION DENIED	Jul 23, 2008	
5	INCOMING - EXT TIME TO OPPOSE FILED	Sep 30, 2008	
6	EXTENSION OF TIME GRANTED	Sep 30, 2008	
7	REQUEST FOR RECONSIDERATION	Oct 01, 2008	
8	EXTENSION DENIED	Oct 09, 2008	
9	TERMINATED	Oct 10, 2008	

Generated on: This page was generated by TSDR on 2016-09-30 00:07:15 EDT

Mark: THE ELF ON THE SHELF



US Serial Number: 77424678

Application Filing Date: Mar. 18, 2008

US Registration Number: 3553223

Registration Date: Dec. 30, 2008

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Feb. 05, 2014

Publication Date: Oct. 14, 2008

Mark Information

Mark Literal Elements: THE ELF ON THE SHELF

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of the words "the ELF on the SHELF". The word "the" appears in red lower-case lettering. Directly below the word "the" appears the word "ELF" which consists of yellow upper-case lettering outlined in red. Directly below the word "ELF" appears the words "on the" which consist of red lower-case lettering. Directly below the words "on the" appears the word "SHELF" which appears in yellow upper-case lettering outlined in red.

Color Drawing: Yes

Color(s) Claimed: The color(s) red and yellow is/are claimed as a feature of the mark.

Related Properties Information

International Registration Number:

International Application(s) /Registration(s) Based on this Property: A0059454

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Children's activity books; Children's books

International 016 - Primary Class
Class(es):

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 01, 2005

Use in Commerce: Sep. 01, 2005

For: Dolls and children's books, sold as a unit

International 028 - Primary Class
Class(es):

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 01, 2005

Use in Commerce: Sep. 01, 2005

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: CCA and B, LLC

Owner Address: 3350 Riverwood Parkway
Suite 300
Atlanta, GEORGIA UNITED STATES 30339

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country: GEORGIA
Where Organized:

Attorney/Correspondence Information

Attorney Name: James H. Johnson, Jr.

Attorney of Record

Docket Number: 33258-0021

Attorney Primary Email Address: patent.docket@sutherland.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: James H. Johnson, Jr.
Sutherland Asbill & Brennan LLP
999 Peachtree Street NE
Atlanta, GEORGIA UNITED STATES 30309-3996

Phone: 404-853-8395

Fax: 404-853-8806

Correspondent e-mail: patent.docket@sutherland.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 06, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Feb. 05, 2014	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	71378
Jan. 23, 2014	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	71378
Feb. 05, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	71378
Jan. 23, 2014	TEAS SECTION 8 & 15 RECEIVED	
Jan. 08, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 08, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jun. 28, 2012	NOTICE OF SUIT	

Feb. 15, 2012	NOTICE OF SUIT	
May 18, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
May 18, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Dec. 30, 2008	REGISTERED-PRINCIPAL REGISTER	
Oct. 14, 2008	PUBLISHED FOR OPPOSITION	
Sep. 24, 2008	NOTICE OF PUBLICATION	
Sep. 09, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	70138
Sep. 09, 2008	ASSIGNED TO LIE	70138
Aug. 30, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 18, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 18, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 18, 2008	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Aug. 16, 2008	NOTIFICATION OF FINAL REFUSAL EMAILED	
Aug. 16, 2008	FINAL REFUSAL E-MAILED	
Aug. 16, 2008	FINAL REFUSAL WRITTEN	69225
Jul. 02, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jul. 02, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jul. 02, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 24, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 24, 2008	NON-FINAL ACTION E-MAILED	6325
Jun. 24, 2008	NON-FINAL ACTION WRITTEN	69225
Jun. 24, 2008	ASSIGNED TO EXAMINER	69225
Mar. 21, 2008	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Section 8 - Accepted
Continued Use:

Affidavit of Section 15 - Accepted
Incontestability:

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 110

Date in Location: Feb. 05, 2014

Proceedings

Summary

Number of 1
Proceedings:

Type of Proceeding: Opposition

Proceeding 91222780
Number:

Filing Date: Jul 13, 2015

Status: Terminated

Status Date: Oct 20, 2015

Interlocutory YONG OH (RICHARD) KIM
Attorney:

Defendant

Name: Ardwin Products LLC

Correspondent THOR ARDWIN
Address: ARDWIN PRODUCTS LLC
3017 PRAIRIE AVE
ROYAL OAK MI UNITED STATES, 48073-6575

Correspondent e-mail: ardwinproducts@yahoo.com

Associated marks

Mark

Application Status

Serial

Registration

Generated on: This page was generated by TSDR on 2016-09-30 00:08:31 EDT

Mark: THE ELF ON THE SHELF

THE ELF ON THE SHELF

US Serial Number: 86688533

Application Filing Date: Jul. 09, 2015

US Registration Number: 5020389

Registration Date: Aug. 16, 2016

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Aug. 16, 2016

Publication Date: May 31, 2016

Mark Information

Mark Literal Elements: THE ELF ON THE SHELF

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 3533459, 3553223, 4626171

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Electric night lights; Decorative lighting in the nature of electrically-illuminated figurines

International Class(es): 011 - Primary Class

U.S Class(es): 013, 021, 023, 031, 034

Class Status: ACTIVE

Basis: 1(a)

First Use: May 2011

Use in Commerce: May 2011

For: Gift bags; Gift wrap paper; Paper gift tags; Gift boxes; Stickers; Calendars; Art pictures

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 01, 2013

Use in Commerce: Oct. 01, 2013

For: Picture frames; Inflatable figures for use as outdoor holiday decorations; Plastic cake toppers and decorations

International Class(es): 020 - Primary Class

U.S Class(es): 002, 013, 022, 025, 032, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 01, 2013

Use in Commerce: Aug. 01, 2013

For: Placemats, not of paper; Table runners, not of paper; Cotton and polyester fabric; Textile wall hangings; Textile wall hangings in the shape of an elf

International Class(es): 024 - Primary Class

U.S Class(es): 042, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 01, 2011

Use in Commerce: Aug. 01, 2011

For: Costumes for use in children's dress-up play

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 01, 2014

Use in Commerce: Sep. 01, 2014

For: Shoe ornaments not of precious metal

International Class(es): 026 - Primary Class

U.S Class(es): 037, 039, 040, 042, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 30, 2014

Use in Commerce: Sep. 30, 2014

For: Playing cards; Memory games; Board games; Party games; Puzzles; Christmas tree skirts; Plush dolls; Christmas tree ornaments; Snow globes; Toy miniature buildings; Modeled plastic toy figurines; Hobby craft kits for making Christmas stockings comprising fabric and patterns

International Class(es): 028 - Primary Class

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 04, 2009

Use in Commerce: Sep. 04, 2009

For: Hot chocolate; Cookies; Bakery products, namely gingerbread houses; Candy decorations for cakes; Chocolate

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 01, 2013

Use in Commerce: Aug. 01, 2013

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: CCA and B, LLC

Owner Address: 3350 Riverwood Parkway, Ste. 300
Atlanta, GEORGIA 30339
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GEORGIA

Attorney/Correspondence Information

Attorney Name: James H. Johnson, Jr.
Attorney Primary Email Address: patent.docket@sutherland.com
Correspondent Name/Address: JAMES H. JOHNSON, JR.
Sutherland Asbill Brennan
999 Peachtree St NE Ste 2300
Atlanta, GEORGIA 30309-3996
UNITED STATES
Phone: 404-853-8395
Correspondent e-mail: patent.docket@sutherland.com

Attorney of Record
Docket Number: 33258-0097
Attorney Email Authorized: Yes
Correspondent
Fax: 404-853-8806
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Aug. 16, 2016	REGISTERED-PRINCIPAL REGISTER	
May 31, 2016	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 31, 2016	PUBLISHED FOR OPPOSITION	
May 11, 2016	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 22, 2016	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 20, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 20, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 20, 2016	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 20, 2015	NOTIFICATION OF PRIORITY ACTION E-MAILED	6326
Oct. 20, 2015	PRIORITY ACTION E-MAILED	6326
Oct. 20, 2015	PRIORITY ACTION WRITTEN	82419
Oct. 19, 2015	ASSIGNED TO EXAMINER	82419
Jul. 14, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 13, 2015	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Aug. 16, 2016

Proceedings

Summary

Number of 1
Proceedings:

Type of Proceeding: Opposition

Proceeding Number: 91222780

Filing Date: Jul 13, 2015

Status: Terminated

Status Date: Oct 20, 2015

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Ardwin Products LLC

Correspondent Address: THOR ARDWIN
ARDWIN PRODUCTS LLC
3017 PRAIRIE AVE
ROYAL OAK MI, 48073-6575

UNITED STATES

Correspondent e-mail: ardwinproducts@yahoo.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE MONSTER ON THE SHELF	Abandoned - After Inter-Partes Decision Plaintiff(s)	<u>86472166</u>	

Name: CCA & B, LLC

Correspondent JAMES H JOHNSON JR
Address: SUTHERLAND ASBILL AND BRENNAN LLP
999 PEACHTREE STREET NE, SUITE 2300
ATLANTA GA , 30309
UNITED STATES

Correspondent e-mail: james.johnson@sutherland.com , patent.docket@sutherland.com , david.mayer@sutherland.com , ann.fort@sutherland.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
THE ELF ON THE SHELF	Section 8 and 15 - Accepted and Acknowledged	<u>77368580</u>	<u>3533459</u>
THE ELF ON THE SHELF	Section 8 and 15 - Accepted and Acknowledged	<u>77424678</u>	<u>3553223</u>
THE ELF ON THE SHELF	Registered	<u>86092146</u>	<u>4626171</u>
THE ELF ON THE SHELF	Registered	<u>86276531</u>	<u>4813953</u>
THE ELF ON THE SHELF	First Extension - Granted	<u>86688571</u>	
THE ELF ON THE SHELF	Registered	<u>86688533</u>	<u>5020389</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jul 13, 2015	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 13, 2015	Aug 22, 2015
3	PENDING, INSTITUTED	Jul 13, 2015	
4	NOTICE OF DEFAULT	Sep 09, 2015	
5	BD DECISION: SUSTAINED	Oct 20, 2015	
6	TERMINATED	Oct 20, 2015	

EXHIBIT B

The Elf on the Shelf Elf Sippers Chocolate Cocoa



*

NEW The Elf on the Shelf Elf Sippers Chocolate Cocoa



\$6.99

Quantity:

1

Available for
Backorder
2329486

[Add To Cart](#)

[Add To Wish List](#)

[Check Store Availability](#)

EXHIBIT C



The Elf on the Shelf®:

A Christmas Tradition (includes one scout elf)

MSRP: \$29.95



[Find a nearby Adoption Center](#)



**Products may vary by store. Please call ahead to confirm availability.*



Adopt this beloved family tradition that has captured the hearts of children everywhere, and embrace the magic of having a scout elf who reports to Santa each night during the holidays. This package contains everything needed to make lasting Christmas memories!



Includes:

- Beautifully illustrated children's book
- One scout elf (boy or girl with light or dark skin)



EXHIBIT D



MEDIA
CONTACT
TS:

Orlando Veras / Christine Olver /
Holly Thomas
646.429.7450 / 646.429.5713 /
646.429.5250

Orlando.Veras@macys.com / Christine.Olver@macys.com /
Holly.Thomas@macys.com

MACY'S MARCH OF MAGIC

**THE 89TH ANNUAL MACY'S THANKSGIVING DAY PARADE® USHERS IN THE
SEASON WITH THE NATION'S FAVORITE HOLIDAY EVENT, FEATURING GIANT
CHARACTER HELIUM BALLOONS, SIGNATURE FLOATS, THE NATION'S FINEST
MARCHING BANDS, ENCHANTING PERFORMANCE GROUPS, CELEBRITY
APPEARANCES AND
THE ONE-AND-ONLY
SANTA CLAUS**

New York, NY - November 2, 2015 - America's favorite holiday tradition will once again kick off the season of joy, as the 89th Annual Macy's Thanksgiving Day Parade® returns to march down the streets of New York City on Thursday, Nov. 26. As millions celebrate the holiday with family and friends, more than 8,000 participants, including clowns, balloon handlers and marching bands, will travel through Manhattan to the sound of the iconic catchphrase Let's Have a Parade™. With more than 3.5 million spectators and more than 50 million television viewers nationwide, the Macy's Thanksgiving Day Parade is the nation's most celebrated and anticipated holiday treat.

"The 89th edition of Macy's famed holiday procession promises to deliver an unrivaled spectacle of magic for millions of spectators lining the streets of New York City and millions more watching it unfold in homes across the nation," said Amy Kule, executive producer of Macy's Thanksgiving Day Parade. "From our signature giant character balloons to our floats of wonder, not to mention the nation's best marching bands, whimsical clowns, celebrities and the big man himself - Santa Claus; the 89th Annual Macy's Thanksgiving Day Parade will continue to delight audiences of all ages, as together we celebrate the start of the holiday season."

Since its origin in 1924, the Macy's Parade has marked the official start of the holiday season, introducing a cherished march of magic that has dazzled

generations of fans. For the 89th edition, the famed spectacle's line-up will feature 17 giant character balloons; 24 novelty/ornament balloons, balloonicles and trycaloons; 27 floats; 1,100 cheerleaders and dancers; more than 1,000 clowns; 12 marching bands; a host of celebrity performers; and of course, the one-and-only Santa Claus.

STARS ON PARADE

The procession will feature a star-studded cast who will celebrate the holiday with America, providing the nation with first-class performances along the way. Joining the festivities this year are Pat Benatar and Neil Giraldo, Mariah Carey, Dove Cameron and Sofia Carson, Cirque du Soleil®, Daughtry, Andra Day, Andy Grammer, Sandra Lee, Shawn Mendes, MercyMe,

Mipso, Miss America 2016 Betty Cantrell, Jennifer Nettles, NHL legends Mark and Marty Howe, Jake Owen, Panic! At the Disco, Plain White T's, Rachel Platten, Prince Royce, Questlove with the cast & Muppets of Sesame Street®, the cast of Broadway's School of Rock, Trey Songz, Jordin Sparks, Chica and the gang from Sprout and Train.

In addition to the performing talent, leading the Parade will be a special invited guest. Each Thanksgiving morning, Ms. Kule leads the line of march through the streets of Manhattan as a representative of the more than 4,000 Macy's employee volunteers who have given up their holiday to bring the nation an unmatched spectacle. Ms. Kule, dressed this year by Tony Award®-winning designer William Ivey Long, will be joined at the head of the Parade by Roseann Levy, a longtime Macy's employee celebrating the 60th year of volunteering her time to put together this magical event for the City of New York and the nation.

GIANTS IN THE SKY

The Parade's signature giant character balloons have showcased the world's most beloved cultural characters since the late 1920's. Evolving from a simple paper sketch to giant wonders on Thanksgiving morning, the balloons are transformed by Macy's "Balloonatics" into high flying art.

This year, four new giant characters will take center stage including Angry Birds' Red by Rovio Entertainment; the pre-historic and legendary DINO™ by Sinclair Oil; Ice Age's Scrat and his Acorn by Twentieth Century Fox; and Ronald McDonald® debuting in his fourth whimsical giant balloon.

Returning characters include Adventure Time with Finn & Jake, Diary of A Wimpy Kid®, **The Elf on the Shelf®**, Hello Kitty®, How to Train Your Dragon's Toothless, PADDINGTON™, Pikachu™, Pillsbury™ Doughboy™, Skylanders® Eruptor, Snoopy & Woodstock, SpongeBob SquarePants, the Red Mighty Morphin Power Ranger and Thomas the Tank Engine®. Returning balloonicles (a Macy's Parade hybrid of cold-air balloon and vehicle) include the famed- spokesduck The Aflac Duck and the supercool KOOL-AID Man.

FLOATING ON AIR

Macy's floating wonders create a collection of magic and imaginative delights that dazzle and transport spectators. These stages are created by Macy's Parade Studio's team of designers, carpenters, painters, animators, metal fabricators and electricians, who work all year to bring the idea on a

sketch pad to towering reality. Macy's Parade floats are often three stories tall and several lanes of traffic wide, but must collapse to no more than 12 ½-feet tall and 8-feet wide in order to safely travel from the New Jersey studio to the Manhattan starting line via the Lincoln Tunnel.

This year's six new floats include Big City Cheer! by Spirit of America Productions, The Colonel's Road Trip to NYC by Kentucky Fried Chicken, The Cranberry Cooperative by Ocean Spray®, Discover Adventure! by Build-A-Bear, Heartwarming Holiday Countdown by Hallmark Channel and celebrating the 50th anniversary of "A Charlie Brown Christmas," Snoopy's Doghouse by Peanuts Worldwide.

The returning float roster includes 1-2-3 Sesame Street; Big Apple (NY Daily News); At the Ball Game (Cracker Jack®); Dreamseeker (Cirque du Soleil®); Enchanting World of Lindt Chocolate; Frozen Fall Fun (Discover®); Free to Play (Sprout®); Girl-Powered Spinning Machine (GoldieBlox®); It's All Rock & Roll (Gibson Brands®); Mount Rushmore's American Pride (South Dakota Department of Tourism); On The Roll Again (Homewood Suites by Hilton®); Santa's Sleigh; Santaland Express; Stirrin' Up Sweet Sensations (Domino® Sugar); Stone Forest of Kunming, China (Sino-American Friendship Association); Teenage Mutant Ninja Turtles (Nickelodeon); Tom Turkey; Treasure Hunt (Pirate's Booty®); Winter Wonderland In Central Park (Delta Air Lines); and A World at Sea (Royal Caribbean International®).

Completing the lineup will be a vintage 1924 Ford Model T Fire Truck, along with the FDNY Pipes & Drums in celebration of their 150th anniversary. In addition, the Casa Fresca Café float by Avocados From Mexico will entice and delight spectators with a tasty and fun fiesta.

DRUM ROLL,
PLEASE ...

Marching bands are a central piece of the Thanksgiving delights, bringing national excitement and hometown pride to the streets of the Big Apple, not to mention the musical beat to the holiday revelry.

Twelve performance ensembles will take up the call of the baton and march down the streets of Manhattan, creating a wave of thunderous applause. Joining the fun are Gulf Coast High School (Naples, FL), Lewis Cass High School (Walton, IN), Munford High School (Munford, TN), Nogales High School (La Puente, CA), North Hardin High School (Radcliff, KY), Stephen F. Austin State University (Nacogdoches, TX), University of Illinois at Urbana-Champaign (Champaign, IL), University of Virginia (Charlottesville, VA), Walled Lake Central High School (Walled Lake, MI), West Chester University of Pennsylvania (West Chester, PA) and the NYPD Marching Band (New York, NY).

Celebrating its 10th anniversary, the Macy's Great American Marching Band will welcome back a selection of alumni band members, in addition to a new class of more than 250 elite high school marching band students from across the country.

Specialty Parade entertainment always promises a unique, exciting, and sometimes humorous look at the nation's finest performance groups. This year, special groups include the 610 Stompers (New Orleans, LA), Brooklyn Jumbies (Brooklyn, NY), J.U.M.P. jump rope team (Strongsville, OH) and the Kruti Dance Academy (Duluth, GA). Completing the performance groups are

the Spirit of America Cheer and the Spirit of America Dance Stars, which both feature 550 of the nation's best cheerleaders and most thrilling dancers.

**A TELEVISION
SPECIAL EVENT**

The nation's biggest and most anticipated Thanksgiving celebration, the Macy's Thanksgiving Day Parade is broadcast nationally on NBC, with millions of families nationwide tuning in to watch the excitement unfold. This year, the TODAY Show's Matt Lauer, Savannah Guthrie and Al Roker will host the three-hour broadcast from 9 a.m. - noon (in all time zones). Joining the Parade, as a signature element kicking off the holiday season will be the world-famous Radio City Rockettes®. The national broadcast would not be complete without showcasing the best theatrical productions. Set for a 34th Street performance will be Fiddler on the Roof, Finding Neverland, The King & I, On Your Feet! and Something Rotten! In addition, spectators will get a sneak preview performance from NBC's The Wiz Live!

**AN
INSIDER'S
LOOK**

For an insider's look at the holiday procession, fans nationwide should check macys.com/parade for regular updates including behind-the-scenes previews, animated videos and other exclusive content. Fans can also download the free 89th Annual Macy's Thanksgiving Day Parade app to interact with the holiday tradition, learn more about the elements and share content with friends. The one-stop mobile destination for everything about the Macy's Parade will be available from the iTunes® App Store or from Google Play.

The 89th Annual Macy's Thanksgiving Day Parade will begin at 9 a.m. from 77th Street and Central Park West. The procession will march to Columbus Circle, turn onto Central Park South and march down 6th Avenue/Avenue of the Americas to 34th Street. At 34th Street, the Parade will make its final turn west and end at 7th Avenue in front of Macy's Herald Square. A Holiday Treat for Children Everywhere has been the guiding motto of this annual tradition for more than eight decades, and is one which continues to this day.

For more information on the Macy's Thanksgiving Day Parade, please visit www.macys.com/parade or call the Parade hotline at 212-494-4495. Follow @macys and join the conversation at #MacysParade on various social networks.

The Manhattan NYC, an Affinia Hotel is the official hotel partner of Macy's Thanksgiving Day Parade. Delta Air Lines, New York's most global airline is proud to be the official airline of Macy's Parade. RAM Trucks is the official truck of the Macy's Parade.

**Timberland is the official outerwear
provider.**

**Remo is the official drumhead
provider.**

PLEASE NOTE: ALL TALENT, PERFORMANCES, ELEMENTS AND INFORMATION INCLUDED ARE SUBJECT TO CHANGE. ADDITIONAL MACY'S THANKSGIVING DAY PARADE MEDIA MATERIALS ARE AVAILABLE AT MACYSPARADEPRESS.COM.

EXHIBIT E

Book Buzz: A holiday favorite returns



Mary Cadden, USA TODAY

2:59 p.m. EST December 10, 2015



(Photo: CCA and B Publishing)

Here's a look at what's new on USA TODAY's Best-Selling Books list ...

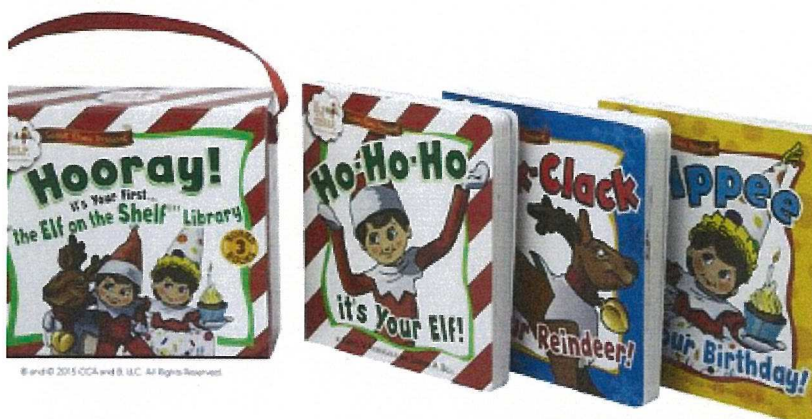
An elf sits atop the list, again: *The Elf on the Shelf* is creating yet another annual tradition and that's returning to No. 1 on USA TODAY's Best-Selling Books List. (The full list will publish Thursday.) Up from No. 3 last week, this year marks the third consecutive year for the book and companion elf.

And the third time is definitely charming for co-author Chanda Bell, "I am pinching myself. I can't imagine it would ever get old."

Written with her mother, Carol Aebersold, the story hits close to home. "I grew up with this tradition and my mom had it as well," Bell says. The book's success is "almost surreal. We really are a small family sharing our tradition."

The mother-daughter duo is expanding their audience this year with *Hooray! It's Your First ... The Elf on the Shelf Library*, a board book collection aimed at those children who are a little too young to 'adopt' their own elf. Says Bell, "the idea came from requests by parents who wanted to start the tradition but their kids were not old enough." A mom herself, Bell understands. "I know what it is like when you can't wait to teach them about Christmas."

Celebrating its 10th anniversary, 'Elf' debuted on USA TODAY's list in 2009 at No. 127 and made it to the top spot for the first time in 2013.



Hooray! It's Your First "The Elf on the Shelf" Library features board books "Ho Ho Ho It's Your Scout Elf," "Yippee It's Your Birthday" and "Click Clack It's Your Reindeer." (Photo: CCA and B Publishing)

NewsRoom

12/11/14 USA TODAY 04D
2014 WLNR 35082853

USA Today (USA) Copyright
(c) 2014 USA Today

December 11, 2014

Section: LIFE

Book Buzz

Jocelyn McClurg

Top Elf: Yep, he's done it again. The Elf on the Shelf climbs to No. 1 on USA TODAY's Best-Selling Books list for the second straight year at exactly the same time, the second week of December. The Christmas phenom -- a box set featuring a book and a doll -- last hit No. 1 for the first time on Dec. 12, 2013. Since cracking USA TODAY's list in November 2009 at No. 127, the Elf has become as ubiquitous as Santa himself and is now a regular in Macy's Thanksgiving Day Parade. Parents (including such celebs as Cougar Town's Busy Philipps) place the little guy in different spots around the house to see who's been naughty or nice.

Human nature: Is Humans of New York on its way to becoming a modern Christmas classic? Brandon Stanton's book of photographs of city dwellers, based on his popular blog, rises to No. 12 from No. 27. Published last year, Humans entered the list at No. 5 on Oct. 24, 2013 and re-entered the top 50 last December. Now, in time for holiday giving, it's selling strongly again. This fall, Stanton published a new book geared to children: Little Humans, photos of pint-size New Yorkers. It entered the list at No. 55 on Oct. 16, fell out of the top 150 and is now back at No. 67.

What's cooking: The Barefoot Contessa has the undisputed hit cookbook of the holiday season. Ina Garten's Make It Ahead, now No. 14, entered the list at No. 3 on Nov. 6 and has been in the top 20 ever since. She offers tips on making recipes ahead of time, a boon to cooks during party season. Eight of Garten's cookbooks have been USA TODAY best sellers. Barefoot Contessa: Foolproof also hit No. 3, when it entered the list in November 2012.

---- Index References ----

News Subject: (Exchange Listings & Delistings (1EX12); Financial Markets (1FI87))

Industry: (Book Publishing (1BO18); Books (1BO26); Consumer Products & Services (1CO62); Department Stores (1DE95); Entertainment (1EN08); Financial Services (1FI37); Games & Toys (1GA85); General Merchandise Stores (1GE70); Publishing (1PU26); Retail (1RE82); Specialty Retailers (1SP71); Traditional Media (1TR30))

Region: (Americas (1AM92); New York (1NE72); North America (1NO39); U.S. Mid-Atlantic Region (1MI18); USA (1US73))

Language: EN

Othtr h\dtldng:(Bru\donStor4on;BusyPhillipps;h\ a Gonin)

Edili>n:FINAL

\VordCour4:286

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.

NewsRoom